

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Case No. 3:18-cr-00062-HDM-CLB

Plaintiff,

v.

ORDER

JULIO CESAR PACHECO-AYON,

Defendant.

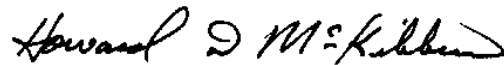
The defendant, Julio Cesar Pacheco-Ayon, has filed a motion for reduction of sentence pursuant to 18 U.S.C. § 3582(c)(2) and Amendment 821 (ECF No. 33). On July 30, 2024, the Federal Public Defender filed a "Notice of Non-Eligibility" pursuant to Second Amended General Order 2023-09, indicating that Pacheco-Ayon is not entitled to a sentence modification under Amendment 821. (ECF No. 37). The court agrees.

Section 3582(c)(2) allows the court to modify a term of imprisonment for "a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by" a retroactive amendment to the Sentencing Guidelines. See *id.*; U.S.S.G. § 1B1.10(a)(1)-(2). Amendment 821 amended the sentencing guidelines in two ways that have been given retroactive effect. First, U.S.S.G. § 4A1.1 was amended to reduce or eliminate the number of criminal history points counted when an offender commits the instant offense while under a criminal justice sentence, otherwise referred to as "status points." Second, Amendment 821 created a new guideline provision - § 4C1.1 - which provides for a reduction

1 in offense level for certain offenders with zero criminal
2 history points. Pacheco-Ayon neither received any "status
3 points" nor was a zero-point offender. Accordingly, Amendment
4 821 had no effect on his guideline range, and he is not
5 therefore eligible for relief under § 3582(c)(2). The motion for
6 sentence reduction (ECF No. 33) must be, and hereby is, DENIED.

7 IT IS SO ORDERED.

8 DATED: This 21st day of August, 2024.

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11 UNITED STATES DISTRICT JUDGE
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